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Abstract

The European Union (EU) is seen as the leading actor in successfully fighting piracy around the Horn of Africa. As a global trade power with strong economic interests, the EU is also challenged by similar maritime security threats in the Gulf of Guinea. To date, there has been no comprehensive analysis to assess the potential transfer of successful EU instruments from the Horn of Africa to the piracy situation in West African waters. This paper examines to what extent the EU can draw on its experience made in the Horn of Africa to deter piracy in West African waters. Based on qualitative research interviews, lessons learned from East Africa are identified and subsequently applied to the situation in the Gulf of Guinea. The results show that the EU is only partially drawing on its experience made in the Horn of Africa. On the one hand, it is rather reluctant to use crisis management instruments such as naval operations. On the other hand, the EU is drawing on its successful leadership in international political and military cooperation from around the Horn of Africa in order to make more effective use of available resources in the Gulf of Guinea.

Introduction

“The world’s seas and oceans are oceans of opportunities. [...] They are indispensable for the future of mankind. [...] Piracy and maritime crime are part of the dark downside of globalisation.”¹

The global maritime domain is characterised by a paradox. On the one hand, oceans and seas cover 71 percent of the Earth’s surface. A huge part of it is defined as the ‘high sea’ or ‘international waters’, an area that is largely under-governed and cannot be patrolled in its entirety. On the other hand, shipping is the backbone of international trade and of European prosperity. About 90 percent of the global trade in goods is transported by sea. Pirates try to take advantage of this dilemma.

Our image of piracy has been romanticised by the entertainment industry and Hollywood productions, for instance in the film series ‘Pirates of the Caribbean’ with Johnny Depp as the Captain of Pirates. In the last years, this nostalgia has gained a modern relevance and a rather worrying topicality with the rise of piracy attacks in the Indian Ocean. In its turn, this contemporary phenomenon has furnished the plot for another Hollywood production, based not on fantasy but on reality: the 2013 thriller ‘Captain Phillips’ was inspired by the hijacking of the cargo ship Maersk Alabama in 2009 off the Somali coast.

In 2008, the number of attacks in the Horn of Africa reached a level that triggered a reaction by the international community. The European Union (EU) subsequently deployed its first European Union Naval Force (EUNAVFOR) to the Somali coast and the EU has since become an important player in the field of maritime security. In the process, the EU committed itself to enhancing global maritime security by adopting the EU Maritime Security Strategy (EUMSS) in June 2014.² Further to its naval presence, the EU has successfully deployed various counter-piracy resources in the Horn of Africa, leading to a significant decline in attacks against merchant and fishing vessels and ships of the World Food Programme (WFP). The EU is seen as the leading actor in the region and considers its

¹ M. Houben, Head of EU Support Team for the EU Presidency of the Chairmanship Contact Group on Piracy off the Coast of Somalia, European External Action Service, conference, “Safe Seas: turning shared maritime interests into global security responsibilities”, Brussels, European Economic and Social Committee, 24 March 2015.

² Council of the European Union, *European Union Maritime Security Strategy*, 11205/14, Brussels, 24 June 2014.

various instruments and policies as a successful example of a Comprehensive Approach towards this crisis.³

On the other side of the African continent, the EU faces maritime security risks as well. According to statistics from the International Maritime Bureau, West African waters⁴ have become the second most affected region by piracy and armed robbery at sea, after the South China Sea. Of the reported incidents in 2014, comprised of actual and attempted attacks, 41 took place off West and Central African countries, whereas the number of reported Somali pirates' attacks decreased from 219 in 2010 to only 11 in 2014.⁵ Hence, it is reasonable to hypothesise that the EU might draw on its successes in the Horn of Africa and apply the same toolkit in West Africa. Therefore, the guiding question of this paper is: How far could the EU draw on its experiences made in the Horn of Africa to deter piracy in West African waters?

This research question will be answered using two case studies, focussing on the interests and the room of manoeuvre for the EU to fight piracy and armed robbery at sea. The EU's response to maritime insecurity in the Gulf of Aden, widely seen as a success, will be compared with the Gulf of Guinea. Data for this paper were collected by conducting seven expert interviews with the relevant EU institutions and private stakeholders.⁶ Furthermore, information and evaluations were gathered during two conferences and one hearing.⁷

The paper argues that the EU is addressing maritime security in West African waters with a less comprehensive approach than it did around the Horn of Africa. One lesson learned is that the EU is more inclined to prevent maritime threats from rising. Further, drawing on its experiences in in East Africa, the EU's objectives in the Gulf of Guinea are to strengthen regional cooperation and to provide training and technical expertise. However, it is rather reluctant to deploy naval assets in the framework of its Common Security and Defence Policy (CSDP). Building on the

³ Interview with an official, Division for the Horn of Africa, East Africa and Indian Ocean, European External Action Service, Brussels, 20 March 2015; hereinafter referred to as 'Interview EEAS East Africa'.

⁴ For the purpose of this paper, the term 'West African waters' designates the coasts of the following Western and Central African countries: Guinea-Bissau, Guinea, Sierra Leone, Liberia, Ivory Coast, Ghana, Togo, Benin, Nigeria, Cameroon, Equatorial Guinea, Gabon, The Congo, Democratic Republic of Congo, Angola.

⁵ ICC International Maritime Bureau, *Piracy and Armed Robbery against Ships, Report for the Period 1 January – 31 December 2014*, London, 2015, p. 5.

⁶ See bibliography for a full list of conducted face-to-face interviews.

⁷ European Parliament, Meeting of the Subcommittee on Security and Defence, 16-17 March 2015, Brussels; European Economic and Social Committee, *Safe Seas: can an Integrated Maritime Surveillance be achieved by the EU?*, 24 March 2015, Brussels; Friedrich-Ebert-Stiftung EU Office, *EU-African Perspectives on Maritime Security*, 4 June 2015, Brussels.

successes off the Somali coast, the EU is ready to help establish or strengthen existing international political and military cooperation fora for the Gulf of Guinea.

In order to allow a systematic approach to the outlined research topic, the first section defines the basic legal provisions related to piracy and armed robbery as examples of violence committed by non-state actors. Attention will be given to the securitisation of maritime risks in the last decade, in particular by the EU itself. The motivations for the EU to fight against piracy will also be highlighted. The second section presents the maritime security threats in the Horn of Africa, which became a serious problem from 2008 onwards. There will be a particular focus on the situation ashore in Somalia, and factors that enabled the rise of pirate attacks in the Western Indian Ocean will be identified. The objective of this section is to identify which instruments of the EU – and of the other public and private actors – have been decisive in deterring piracy off the Somali coast. In the third section, the situation of important coastal countries and the respective incidence of maritime crime will be analysed. Recent figures will demonstrate that the nature and *locus* of pirate attacks differ strongly between the two Gulfs. Therefore, the EU – in a hypothetical perspective – cannot simply replicate all the instruments from the East African in West African waters. However, apart from tailor-made instruments, some resources that were successful around the Horn of Africa could also be deployed in the West African context; and their respective fit or misfit will be studied to create a vision of how the EU might potentially react.

Piracy and armed robbery at sea as new security risks for the EU?

Maritime threats and non-state actors

From the end of the seventeenth century, piracy was commonly understood as “unlawful depredation at sea involving the use or threat of violence possibly, but not necessarily, involving robbery”.⁸ When taking a closer look at the criminals, it becomes evident that they are non-state actors posing a particular security threat. Pirates can be characterised as *status quo*-oriented, depending on legitimate trade and governance to secure their achievements and to sustain the enabling factors of their criminal activity. Their territorial claims are rather limited. Violence is used as a

⁸ M.N. Murphy, *Small boats, weak states, dirty money: Piracy and maritime terrorism in the modern world*, New York, Columbia University Press, 2010, p. 7.

means of intimidation but is not a primary goal in itself; the pirates pursue primarily economic goals and are not following a socio-political agenda.⁹

These elements, however, only reflect the outsider's perspective. Piracy can also be seen as an intrinsic part of a society's fiscal and commercial life, and local communities may even give shelter and support the criminal gangs. In their own narrative, pirates see themselves in some cases as a parallel customs authority collecting 'taxes' from ships crossing their respective territorial waters if central state governance structures are missing.¹⁰ In the Somali case, pirates initially saw themselves as the coastguards of a failed central state that was powerless to protect coastal communities from illegal exploitation of Somali fish resources by huge foreign ships and from toxic waste dumping – two factors that deprived local fishers of their source of income.¹¹ The provision of coastguard functions and the economic growth related to piracy in the coastal communities can actually endow criminal gangs with legitimacy in the eyes of the local population.

Piracy is, furthermore, related to different dimensions of security. For seafarers who are victims of piracy attacks, the fundamental and rather traditional meaning of 'security' that entails not being killed or hurt is at stake. Further to this individual and human level of security, piracy can also affect the societal level of security. When important sea lines of communication (SLOC) are interrupted because of piracy, maritime insecurity can lead to economic insecurity at the societal level.

Legal framework of the maritime domain

Almost three quarters of our globe are covered by oceans and seas. This huge surface cannot of course be regularly patrolled without immense costs. Furthermore, a liberal approach of maritime governance in international customary law, *mare liberum*, promotes the freedom of navigation as a pillar for free international trade. The vast majority of marine spaces are thereby seen as not belonging to any state, but as constituting shared territory where, in principle, no jurisdiction prevails. As a threat to the freedom of navigation, piracy has consequently been seen as a universal challenge and a global problem, making pirates inherent enemies to the idea of free high seas.¹²

⁹ A. Bailes, U. Schneekener & H. Wulf, "Revisiting the State Monopoly on the Legitimate Use of Force", *DCAF Policy Paper*, no. 24, Geneva, Geneva Centre for the Democratic Control of Armed Forces, 2007, pp. 12-14.

¹⁰ Murphy, *op. cit.*, p. 130.

¹¹ D. Helly, Visiting Professor at the College of Europe, lecture, Bruges, 23 March 2015.

¹² Murphy, *op. cit.*, pp. 11f.

The first international agreement that dealt with piracy was the Convention on the High Seas of 1958 which established the four pillars of piracy: (1) the private character of piracy attacks committed by non-state actors; (2) the high seas as the place where attacks occur; (3) the right for states to seize pirates, using the authorised government services of a state; and (4) the right of this state to apply its jurisdiction to any pirates arrested.¹³ These principles were then also included in the United Nations Convention on the Law of the Seas (UNCLOS) of 1982 that became the standard document of reference for international maritime law. Hence, piracy in terms of international law is restricted to the high seas. However, acts of violence, detention or depredation against private ships for private ends also occur in territorial waters, that is, in the 12 nautical miles zone of a coastal country. The definition of “armed robbery at sea” by the International Maritime Organisation (IMO) filled this gap in international maritime law only as late as 2009.¹⁴ Thus, it can be concluded that the main difference between piracy and armed robbery at sea is the *locus delicti*.¹⁵

The authority to conduct counter-piracy activities follows, again, a geographical logic. All states that are parties to the UNCLOS are obliged to cooperate in the repression of piracy on the high seas.¹⁶ In the territorial waters under a coastal state’s jurisdiction, that state has the sole sovereign right to enforce its respective legal provisions regarding armed robbery at sea. However, derogations to this general rule are possible, as seen in the Somali case where piracy repression was conducted in territorial waters and even ashore with the agreement of the coastal country.

Murphy argues that this division between piracy and armed robbery at sea along the line between territorial and international waters is not well adapted to what he calls a “singular problem: the exploitation of a fluid medium for diverse but violent, criminal acts”, which also has an international character because of the various nationalities of its perpetrators and victims.¹⁷

¹³ United Nations, *Convention on the High Seas*, Geneva, 1958, articles 14-21.

¹⁴ International Maritime Organisation, *Resolution A.1025(26), Code of Practice for the Investigation of the Crimes of Piracy and Armed Robbery against Ships*, 2009, p. 4.

¹⁵ R. Geiss & A. Petrig, *Piracy and Armed Robbery at Sea: The Legal Framework for Counter-Piracy Operations in Somalia and the Gulf of Aden*, Oxford, Oxford University Press, 2011, p. 74.

¹⁶ United Nations, *United Nations Convention on the Law of the Sea*, Montego Bay, 1982, art. 100.

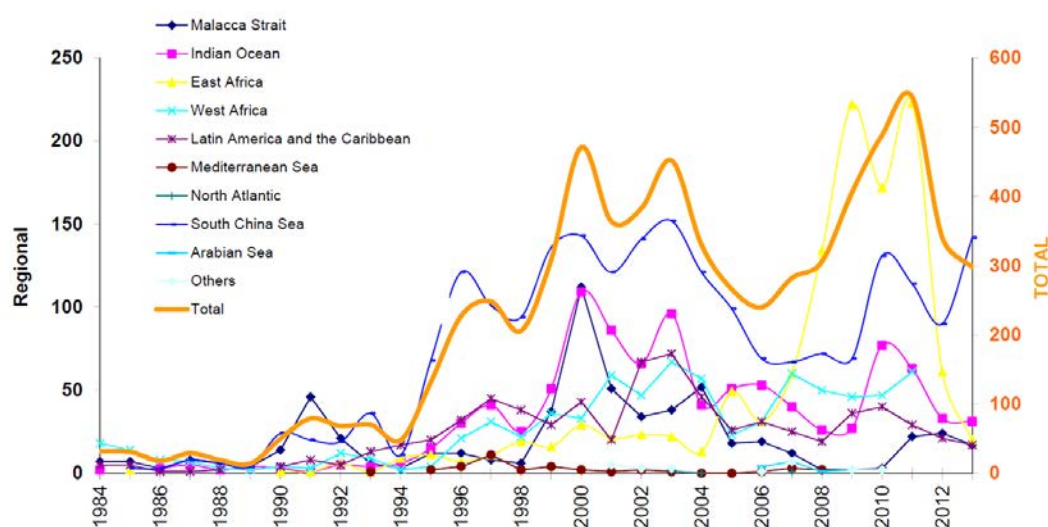
¹⁷ Murphy, *op. cit.*, p. 10.

The EU's securitisation of the maritime domain

In the 20th century, piracy was seen as a problem belonging to history without great relevance for the modern world.¹⁸ However, in the early 2000s, piracy became a serious problem for seafarers with a high level of 400-500 reported incidents worldwide per year (see Figure 1).¹⁹ Nonetheless, it can be argued that piracy and armed robbery at sea were still largely ignored by international security actors at this time.²⁰ It was only in 2008 and following the rise of piracy off the Somali coast that piracy firmly entered the agenda of the international security community.

The securitisation framework originally proposed by Waever, Buzan and de Wilde tries to deconstruct how a political actor can move an issue from the normal political sphere into the security sphere.²¹ These scholars argue that the security agenda is not objective and externally determined but intersubjective and socially constructed through speech acts. The three elements of the securitisation framework are: the issue that is constructed as a threat; the referent (the collective that is said to be exposed to this threat); and the practice (the urgent and extraordinary measures by the state or political elites to respond to the issue).²²

Figure 1: Piracy and armed robbery incidents since 1984



Source: International Maritime Organisation, *Annual Report – 2013*, op. cit., annex 4.

¹⁸ *Ibid.*, p. 13.

¹⁹ International Maritime Organisation, *Reports on Acts of Piracy and Armed Robbery against Ships, Annual Report – 2013*, 1 March 2013, annex 4.

²⁰ Ch. Bueger & J. Stockbruegger, "Security Communities, Alliances, and Macrosecritization: The Practices of Counter-Piracy Governance", in M. Struett, J. Carlson & M. Nance (eds.), *Maritime Piracy and the Construction of Global Governance*, New York, Routledge, 2013, p. 99.

²¹ B. Buzan, O. Wæver & J. de Wilde, *Security: A New Framework for Analysis*, Boulder, Lynne Rienner, 1998, pp. 21-26.

²² *Ibid.*

Since the UN Secretary General published a Report on Oceans and Law of the Sea in 2008, piracy has commonly been seen as one of the key threats to maritime security. The notion of maritime security itself can be described as an international buzzword: "a term that draws attention to new challenges and rallies support for tackling these".²³ The 2003 European Security Strategy (ESS) did not contain a substantial reference to piracy as a threat; maritime security was not on the European agenda at that earlier stage. However, with the rise of piracy attacks in the Horn of Africa and the deployment of the first naval military operation under the framework of the CSDP, a strategic framework for the EU's action on the seas and oceans was felt to be missing. The EUMSS of 2014 filled this gap by linking the rather economic EU Integrated Maritime Policy (IMP) with the ESS. The result is a broad notion of security that encompasses dimensions of traditional, societal, economic, environmental and human security.

Hence, tasked by the highest level of political actors in the EU - the European Council - the EU has securitised the maritime domain and put piracy on the political agenda again. The nature of threats to maritime security, and the referent (in terms of securitisation theory), have thus been identified: but it is still to be seen to what extent the EUMSS can or will be implemented within the multi-level und multi-sectoral framework of the EU.

Which have been the motivations of the EU as an actor for securitising piracy? First of all, direct security concerns are related to the human costs of piracy. The crew face the threat or use of violence, and they may be taken hostage, tortured or killed in order to increase the pressure to make the ship-owners pay ransoms. Hence, there is a demand for security provision from the seafarers and their trade unions.²⁴ Related to this are the interests of European ship-owners who bear a part of the financial costs related to piracy and armed robbery at sea. In a market with low prices and strong competition for maritime transport, they demanded an anti-piracy response by the EU in order to secure their businesses, arguing that the same level of awareness and action for aviation and maritime security should apply. ²⁵ The business interests of European ship-owners have played an important role in forging the EU's response to piracy as a maritime threat. Moreover, the EU, as a major global trade bloc, relies heavily on the freedom of navigation of vessels carrying goods that it either exports or imports in order to satisfy its own needs.

²³ Ch. Bueger, "What is maritime security?", *Marine Policy*, vol. 53, 2015, p. 159.

²⁴ A. Graveson, Senior National Secretary, Nautilus International, conference, "Safe Seas", *op. cit.*

²⁵ Interview with a representative of the European Community Shipowners' Association, Brussels, 18 March 2015; hereinafter referred to as 'Interview ECSA'.

Interestingly, the EUMSS also sees energy security as an important dimension of maritime security for an EU that is increasingly dependent on energy imports.²⁶ Hence, the EU's interests related to the global maritime domain are manifold and relate to different dimensions of security.

The EU's response to piracy in the Horn of Africa: a comprehensive approach?

Somalia – a failed state, piracy and the EU's responses

Piracy and all types of maritime crime have their root causes ashore, including both endogenous and exogenous elements. The pirates operating off the Horn of Africa are based in Somalia, but their activities extend also to the territorial waters of neighbouring countries that have few capabilities to tackle this problem. Somalia is, however, the core of this threat to maritime security due to its fragile state structure.

The absence of effective control of the Somali coastline through state authorities triggered irresponsible exploitation of Somalia's rich marine resources by foreign fishing vessels from Europe and East Asia.²⁷ This led to existential problems for the coastal communities that were relying on fishing to sustain their local economies. Fishermen became angry coastguards for whom piracy became a profitable business.²⁸ The degradation of local environmental security led to poor economic security. Piracy emerged as a serious security threat for fishing and merchant vessels. The extreme poverty in affected areas and the promise of receiving significant financial rewards by cashing in on ransoms or the cargo of the vessels are also crucial conditions for piracy to thrive.²⁹

Somali pirates have been operating under the protection of warlords' forces.³⁰ Further, there have been repeated allegations about the involvement of the Puntland authorities, who also held senior positions within the transitional federal government.³¹ The problem of Somali piracy is thus rooted in the failure of the state to suppress piracy and in the fact that the society is divided and some of the factions support the pirates' activities, due also to the absence of economic alternatives in the coastal communities.³²

²⁶ Council of the European Union, *op. cit.*, p. 2.

²⁷ Murphy, *op. cit.*, p. 101.

²⁸ J. Bahadur, *The Pirates of Somalia. Inside their hidden world*, New York, Vintage House, 2011, 2nd edn., p. 16.

²⁹ J. Burnett, *Dangerous Waters: Modern Piracy and Terror on the High Seas*, 2002, New York, Plume, 2002, p. 117.

³⁰ Murphy, *op. cit.*, p. 105.

³¹ *Ibid.*, p. 108.

³² Ch. Kaunert & K. Zwolski, *The EU as a global security actor: A comprehensive analysis beyond CFSP and JHA*, Basingstoke, Palgrave Macmillan, 2013, p. 169.

How did the EU's foreign policy tackle this maritime threat off the Somali coast? In general, in the multiple policy areas belonging to its external relations, the EU has different levels of competences, structures and instruments. In order to achieve consistent external action, not only by the member states and the EU, but also in horizontal terms between the different EU sectoral services responsible for areas such as development cooperation or external trade, the EU has developed a Comprehensive Approach to crises and conflicts.³³ In the particular case of piracy in Somalia, the Commission and the EEAS consider themselves to be realising the Comprehensive Approach successfully.³⁴ However, the European Parliament in its report on the Comprehensive Approach criticised that "EU action in the region has been built up on the basis of pioneering CSDP initiatives" and that the Comprehensive Approach is therefore "more of an ex-post empirical and pragmatic achievement rather than a well designed and planned strategy".³⁵ The EU started the strategic discussion only after engaging militarily in the region, and the institutional actors recognise that the EU acted too late in the Horn of Africa.³⁶ The 'common strategic vision' followed only in November 2011 when the Foreign Affairs Council adopted a regional strategy for the Horn of Africa. However, the EEAS's position is that, even if the non-military action came late, at least the EU's current engagement in Somalia and the region is comprehensive.³⁷

Detering Somali piracy – short-term responses by the EU

From 2006 onwards, attacks by pirates off the Somali coast surged to such a degree that the UNSC, in 2008, encouraged member states to take action to deter pirate activities in cooperation with Somalia's transitional federal government. It even authorised foreign naval forces to enter the Somali territorial waters in pursuit of pirates.³⁸

Following this UNSC Resolution, European ship-owners, especially the Danish, pushed for a military response by the EU to protect ships, their crew and cargo.³⁹ In November 2008, the Foreign Affairs Council launched the first common EU naval

³³ European Commission & High Representative of the European Union for Foreign Affairs and Security Policy, *Joint Communication: The EU's Comprehensive Approach to external conflict and crises*, JOIN(2013) 30 final, Brussels, 11 December 2013.

³⁴ Interview EEAS East Africa, *op.cit.*

³⁵ European Parliament, *Report on the EU Comprehensive Approach and its implications for the coherence of EU external action*, A7-0138/2014, Strasbourg, 21 February 2014.

³⁶ Interview with an official, Division for West Africa, European External Action Service, Brussels, 18 March 2015; hereinafter referred to as 'Interview EEAS West Africa'.

³⁷ Interview EEAS East Africa, *op.cit.*

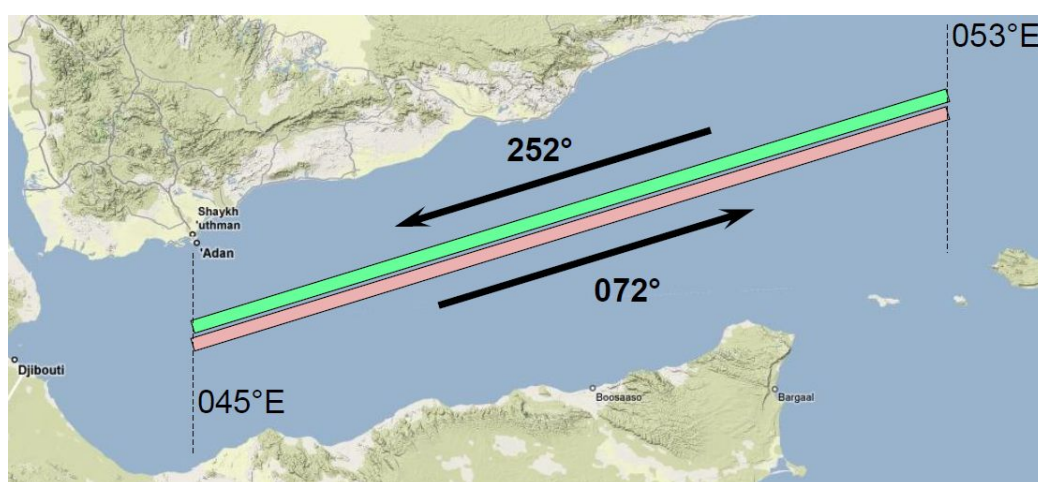
³⁸ United Nations Security Council, *Resolution 1816 (2008)*, New York, United Nations, 2 June 2008, arts. 3 and 7.

³⁹ Interview ECSA, *op. cit.*

operation, called 'EUNAVFOR Atalanta', with the mandate to protect vessels of the WFP and the African Union Mission in Somalia (AMISOM) shipping, to deter and repress acts of piracy, and to protect, on a case-by-case basis, vulnerable shipping and to monitor fishing activities. EUNAVFOR Atalanta comprises 1200 personnel, four to seven warships and two to four aircraft.⁴⁰

However, military visibility is only one dimension of the Atalanta operation. A strongly appreciated tool of the EU's security provision is an online-based exchange and reporting platform, the Maritime Security Centre Horn of Africa (MSCHOA).⁴¹ Through this mechanism, the mission's headquarters carry out an interaction and an information exchange with the shipping companies: First, the companies register their ships with the platform and indicate their cargo and course; second, the OHQ/FHQ of EUNAVFOR plans its operations accordingly and provides risk assessments.⁴² Further, EUNAVFOR has organised convoys of merchant vessels crossing the Gulf of Aden accompanied by warships and helicopters, and passing through an Internationally Recommended Transit Corridor (IRTC, see Figure 2).⁴³

Figure 2: Group transit through the IRTC



Source: NATO Shipping Centre, "Group transits through the IRTC".

It was estimated that in order to always have one ship ready within one hour to counter a potential attack, 83 warships would be necessary.⁴⁴ This number, however, was never reached, despite other states and international organisations (US - CTF-

⁴⁰ European External Action Service, *European Union Naval Force Somalia Operation Atalanta*, Brussels, 2014.

⁴¹ Kaunert & Swolski, *op. cit.*, p. 169.

⁴² Interview with an official (no. 1), Crisis Management and Planning Directorate, European External Action Service, Brussels, 20 March 2015; hereinafter referred to as 'Interview EEAS CMPD 1'.

⁴³ Helly, *op. cit.*

⁴⁴ D. Helly, "Lessons from Atalanta and EU counter-piracy policies", Paris, European Union Institute for Security Studies, 2011, p. 11.

151, NATO Operation Ocean Shield, China, Russia, India) having deployed naval assets as well. Yet the various international naval forces did establish a de-confliction mechanism that enables cooperation on the operational level. This platform, the Shared Awareness and Deconfliction Meeting (SHADE), was open to all interested states. It became firmly established and its work was welcomed by the participants. Regardless of possible differences on the political level, on the operational level the EU, the US, Russia, China and others sat around the SHADE table and shared information on risks and planned manoeuvres.⁴⁵ The EU sees SHADE as "a remarkable, if not unique, operational success".⁴⁶

Because of EUNAVFOR and all the connected activities and instruments, the EU has been seen as the leading military actor in international military efforts to counter piracy off the Somali coast.⁴⁷ However, the joint international efforts in maritime patrolling might only provide a limited deterrent given the vast maritime area to be covered.⁴⁸ The EU is also keenly aware of the connection between maritime crime and its root causes ashore.⁴⁹

The ultimate goal of the EU is to sustain the current low level of incidents in East African waters around the Horn, with a view to reducing or withdrawing its costly naval force whose mandate currently runs until December 2016. The latest extension of EUNAVFOR's mandate was commended by European ship-owners.⁵⁰ The debate surrounding this decision is to a large extent also driven by the question of who pays for security. Whereas the maritime industry would itself bear the costs for self-protection measures, such as the use of private security companies, the EUNAVFOR operation is paid for by the national budgets of the EU member states. In any case, EU member states – while commending the successes of this operation – are looking for a reduction of the naval presence after 2016, in view, *inter alia*, of other emerging threats like the Islamic State.⁵¹

⁴⁵ A. Clark, "Counter Piracy Operations, Challenges, Shortfalls and Lessons", presentation, 4 June 2009.

⁴⁶ M. Houben, "Operational coordination of naval operations and capacity building", in T. Tardy (ed.), *Fighting piracy off the coast of Somalia: Lessons learned from the Contact Group*, Report, no. 20, Paris, European Union Institute for Security Studies, 2014, p. 29.

⁴⁷ A. Cole, Head of Global Maritime Crime Programme, United Nations Office for Drugs and Crime, presentation, Brussels, European Parliament, Subcommittee on Security and Defence, 17 March 2015.

⁴⁸ Murphy, *op. cit.*, p. 106.

⁴⁹ Interview EEAS East Africa, *op. cit.*

⁵⁰ Interview ECSA, *op. cit.*

⁵¹ Interview EEAS East Africa, *op. cit.*

Tackling root causes – long-term engagements

Beyond the deployment of EUNAVFOR in 2008, the EU has increased its efforts in the Horn of Africa, especially in Somalia, and uses instruments that are oriented to the medium and longer term. The EU's approach in tackling the root causes is two-fold: firstly, establishing the rule of law and reforming the security sector, and secondly, improving the socio-economic situation.⁵²

The security-focussed approach is aimed at providing basic security and safety in Somalia and establishing the rule of law. The biggest risks for peace and stability in Somalia are linked to the civil war between clans and warlords, and to the terrorist insurgents of Al-Shabaab. With the objective of improving the security situation in Somalia and reforming the country's security sector, the EU has deployed several instruments, which involve either its own direct actions or financial support for international partners' efforts.

Two instruments of the EU's CSDP on land complement the naval operation at sea: the EU Training Mission Somalia (EUTM Somalia) and the EU Regional Capacity Building Mission in the Horn of Africa (EUCAP Nestor). The military training provided, in close cooperation with other international actors like the US and the African Union (AU), aims at training the Somali armed forces in order to make them more efficient in fighting Al-Shabaab and the warlords who seek to undermine the federal government's authority. In order to avoid further spill-over of the conflict into neighbouring countries, the AU has deployed a military operation in Somalia (AMISOM) with currently more than 20,000 soldiers. With the African Peace Facility (APF), the EU has a financial instrument for substantial contributions to the funding of African-led actions on peace and security. These efforts by the EU are important building blocks for the establishment of the Somali state's monopoly of force, the rule of law, and an efficient and accountable security sector.

With the objective of improving maritime security, and in particular of fighting piracy, the EU launched the civilian mission EUCAP Nestor in July 2012 with a zone of activity in Somalia, Djibouti, the Seychelles and Tanzania. Its objectives are to "enhance the capacity of the States [...] to exert effective maritime governance" and to "strengthen regional cooperation and coordination of maritime security".⁵³ This ongoing mission has 100 international and local staff – experts who advise, mentor and train port police, coastguards, navies, prosecutors and judges in three

⁵² *Ibid.*

⁵³ European External Action Service, *Regional Maritime Security Capacity Building Mission in the Horn of Africa and the Western Indian Ocean (EUCAP Nestor)*, Brussels, 2014.

fields of competence: legal, maritime, and police.⁵⁴ The mission has been criticised because of the mismatch between its complex, region-wide mandate and the low level of human resources.⁵⁵ The mission is currently about to be re-focused towards a greater engagement in Somalia.⁵⁶

In close coordination with the CSDP instruments, the EU has also been providing support for enhancing maritime security through external financial instruments: the Instrument contributing to Stability and Peace (IcSP),⁵⁷ and the European Development Fund (EDF).⁵⁸ The trans-regional Critical Maritime Routes (CMR) programme and the Maritime Security Programme (MASE) are designed to foster trans-regional cooperation, build capacities for the sharing of information and best practices, and to promote international standards and codes of conduct.⁵⁹ The CMR programme is a follow-up to the adoption of the Djibouti Code of Conduct in 2009 – a regional strategy that defines cooperation objectives for coastal countries regarding the prosecution of suspect pirates, the interdiction and seizure of pirate ships, rescue of attacked ships and the conduct of operations.⁶⁰ The EU is also cooperating with INTERPOL in implementing some aspects of the CMR programme. MASE is a joint undertaking of the EU and the UN Office for Drugs and Crime (UNODC) to support the implementation of the Indian Ocean Regional Strategy and Action Plan (ESA-IO) adopted in 2010.⁶¹

The EU is strengthening economic development in the Somali coastal communities by creating legal alternatives to criminal activities. These activities are channelled through the EDF, a development instrument designed for the EU's associated group of African, Caribbean and Pacific (ACP) countries.⁶² Within the current envelope (2014-2020), the 11th EDF foresees €286 million to be allocated to three focal sectors: strengthening the rule of law, improving basic safety and security, and creating sustainable employment opportunities.⁶³

⁵⁴ *Ibid.*

⁵⁵ Deutsche Bundeswehr, *Interview: EUCAP Nestor ist auf dem richtigen Weg*, 13 June 2014.

⁵⁶ Interview EEAS East Africa, *op. cit.*

⁵⁷ Funding amounts to €16.5 million for the period of 2014-2017.

⁵⁸ Under the 11th EDF (2014-2020), the MASE project's budget will be about €37.5 million.

⁵⁹ European Commission, *Instrument contributing to Stability and Peace (IcSP) - Thematic Strategy Paper 2014-2020*, Brussels, 12 August 2014, p. 29.

⁶⁰ IMO, *Djibouti Code of Conduct*, 2015.

⁶¹ Critical Maritime Routes Information Portal, *MASE*, 2015.

⁶² Interview EEAS East Africa, *op. cit.*

⁶³ Government of the Federal Republic of Somalia & European Commission, *National Indicative Programme for Federal Republic of Somalia 2014 to 2020*, Nairobi, 19 June 2014, p. 15.

The results of the EU's and member states' engagement, as the world's biggest collective donor of official development assistance to Somalia, may however only be fully visible in ten or fifteen years time.⁶⁴ Even so, some initial successes have been achieved. Coastal communities are no longer supporting or protecting the pirates, as was the case when piracy and the resulting ransoms led to economic growth in these areas. The local population has become aware of the unlawful character of piracy.⁶⁵

Successes, problems and lessons learned at the Horn of Africa

What has been the impact of the aforementioned long and short-term instruments? Currently, piracy off the Somali coast is no longer a maritime security problem. In 2014, only eleven attempted attacks attributed to Somali pirates were reported, and none of them were successful, that is, no ships were boarded or hijacked.⁶⁶ In this respect, EUNAVFOR was a success, providing the EU with international recognition through leading the international military efforts to deter piracy using joint operational planning.⁶⁷

Even if the EU's naval force in the Western Indian Ocean may have monopolised the attention of the media, the EU must be seen as a comprehensive security actor in countering piracy off Somalia. Apart from the coordination with international partners, the EU also uses its numerous instruments in an effective and coherent way. It fills gaps that are caused by the fragility of Somalia and tries, at the same time, to re-build the local security sector, the rule of law and economic development. The EU is trying to make a coherent use of its different political, diplomatic, military, civilian and financial instruments. Coordination meetings between the Commission, the EEAS, and the Special Representative's (EUSR) office, which are in charge of these instruments, take place on a weekly basis.⁶⁸ The Comprehensive Approach itself can be seen as embodying a lesson learned from the EU's growing efforts in the Horn of Africa, even if the strategic debate about defining the EU's priorities and areas of action began too late. More generally, a lesson learned from the EU's engagement with the region is that it was too late to act. The prevention of piracy was not an EU priority when Somalia was breaking apart in the 2000s.

⁶⁴ Interview EEAS East Africa, *op. cit.*

⁶⁵ *Ibid.*

⁶⁶ ICC International Maritime Bureau, *op.cit.*, p. 8.

⁶⁷ Cole, presentation, European Parliament, *op. cit.*

⁶⁸ Interview EEAS East Africa, *op. cit.*

The case of Somali piracy also demonstrates how the EU needs to take into account the actions of other international actors. It did so in supporting the AU and its AMISOM mission and in coordinating its political and military responses within the UN Contact Group on Piracy off the Coast of Somalia (CGCPS) and SHADE mechanisms. Further, it has supported other organisations in their efforts. The UNODC and INTERPOL both describe their cooperation with and support by the EU as very productive and fruitful.⁶⁹ However, when working with partner organisations, the EU is heavily dependent on the latter's efforts. For instance, the EU's support package to AMISOM is sizeable but the EU has very little leverage on the mission's operational command and its architecture.⁷⁰

The EU's leadership is also illustrated by its pivotal role within the CGCPS, which the EEAS sees as "a new international governance model" – working with the UN but not being part of it.⁷¹ The EU's status has risen from an observer in 2009, at the outset of this forum, to exercising the chairmanship from January 2014.⁷² The CGCPS serves to create international unanimity as a platform for finding responses to this international problem: "No other security challenge creates such an international unanimity."⁷³ Based on shared interests and mutual trust, the forum delivers concrete results, for instance in terms of the investigation and prosecution of suspected pirates, whilst respecting human rights.⁷⁴ The CGCPS includes governmental actors and non-governmental organisations (NGOs) as well as the private industry and civil society. It has become an "expansive, elastic, multi-faceted mechanism that, by 2014, had stimulated effective and coordinated action by stakeholders from virtually every sector of global society affected by the problem of piracy".⁷⁵

In sum, the EU's contribution to deterring piracy attacks in the Horn of Africa is certainly substantial. However, other factors – rather out of the EU's control – have contributed to the prevention of incidents as well. European ship-owners stress two additional factors: firstly, the self-protection measures taken on vessels, the Best Management Practices (BMP), and secondly, the use of private security forces on

⁶⁹ Cole, presentation, European Parliament, *op. cit.*

⁷⁰ J. Daemers, "The EU in Somalia – beyond Atalanta", *Alert*, no. 3, Paris, European Union Institute for Security Studies, 17 January 2014, p. 2.

⁷¹ M. Houben, Head of the Support Team of the Contact Group on Piracy, European External Action Service, presentation, Brussels, European Parliament, Subcommittee on Security and Defence, 17 March 2015.

⁷² *Ibid.*

⁷³ *Ibid.*

⁷⁴ *Ibid.*

⁷⁵ H. Swarttouw & D. Hopkins, "The Contact Group on Piracy off the Coast of Somalia: genesis, rationale and objectives", in T. Tardy (ed.), *Fighting piracy off the coast of Somalia: Lessons learned from the Contact Group*, Report, no. 20, Paris, European Union Institute for Security Studies, 2014, p. 11.

board.⁷⁶ More than half of the ships sailing through the Horn of Africa have private armed or unarmed guards on board.⁷⁷ Their presence can deter an attack or even defend cargo and crew in case a ship is boarded by pirates. However, several legal issues are still a problem, and legislation in the various EU member states is either non-existent or very diverse regarding the legality and liability of armed guards.

Again, it is difficult to establish causalities between these three factors and the actual drop in piracy incidents off the Somali coast. In view of the international actors engaged in development cooperation, it is also difficult to say how effective the EU's involvement has been. In terms of donors' successes in building a safe and secure environment, and fostering economic development in Somalia, much will depend on the country itself. Somalia is still a thoroughly failed state, destabilised by civil war and the continued fighting between forces supporting the central government and Islamist insurgents. Hence, "it remains almost impossible to assess any progress".⁷⁸

A shift of threats and responses from East to West Africa?

Coastal countries – part of the solution or part of the problem?

Whereas incidents of piracy and armed robbery at sea spectacularly declined in the Gulf of Aden, piracy is often described as being on the rise in the Gulf of Guinea. In 2014, only 11 incidents around the Horn of Africa were reported to the International Maritime Bureau but 41 incidents occurred in West African waters. Attacks off the Nigerian coast account for the greatest share of these incidents: 8 actual and 10 attempted attacks were reported.⁷⁹ However, many attacks also go unreported because ship-owners fear higher insurance premiums or new attacks in view of recurrent schedules.⁸⁰

Nonetheless, two caveats must be made. Firstly, piracy and armed robbery at sea in the Gulf of Guinea are not a new problem. IMO data shows that attacks started to rise in 1995, reaching a level of around 50 incidents per year since 2001 – a level that has been maintained until today.⁸¹ However, whereas previous incidents were related to petty theft, a less significant form of piracy, attacks in recent years have increasingly aimed at seizing cargo (ship to ship) or taking hostages, with a

⁷⁶ Interview ECSA, *op. cit.*

⁷⁷ *Ibid.*

⁷⁸ Kaunert & Zwolski, *op. cit.*, p. 186.

⁷⁹ ICC International Maritime Bureau, *op. cit.*, p. 8.

⁸⁰ Interview ECSA, *op. cit.*

⁸¹ International Maritime Organisation, *Annual Report – 2013, op.cit.*, annex 4.

higher level of violence, and the use of sophisticated arms such as rockets.⁸² Second, the location of the attacks is different from East Africa. In the past, the attacks have occurred more in territorial waters than in international waters, in particular in port areas or rivers of the Niger delta.⁸³ In East Africa, vessels were attacked far off the Somali coast. Since 2008, however, more attacks have been reported in international waters off Nigeria than in the country's territorial waters.⁸⁴

Piracy and armed robbery at sea in this region is a problem for the EU because countries of the Gulf of Guinea account for 13 percent of oil and 6 percent of gas imports to the EU.⁸⁵ On average, 30 EU flagged or owned ships are located at any one time in the Gulf.⁸⁶ Further, the attacks disrupt trade and maritime transport in the region as a whole and thereby pose a threat to the international community.⁸⁷ Hence, many policy-makers in the EU are starting to diagnose a shift of piracy – and piracy-related concerns – from East to West Africa.⁸⁸ Indeed, the Somali pirates may have inspired others by demonstrating that kidnapping and cashing in on ransoms is a profitable business.⁸⁹

The root causes of maritime crime in West Africa are to some extent comparable to those in East Africa. Again, low levels of economic development and high unemployment rates, combined with the lucrative financial opportunities of oil theft and associated criminal activities, attract young people.⁹⁰ Although the situation is slightly better in Nigeria – as the core country of the piracy problem in West Africa – than in Somalia, the country is still seen as a fragile state.⁹¹ However, the main reason for thriving piracy is the lack of rule of law and law enforcement in the region; and in this sense, the situation is again comparable to East Africa. The countries in the region, even if they mount patrols and make arrests, often lack the

⁸² J. Bridger, "Kidnapped Americans in Context: The Shifting Forms of Nigerian Piracy", *US Naval Institute News*, 31 October 2013; H. De Gouveia E Melo, Executive Assistant to the Chief of the Portuguese Naval Staff, conference, "Safe Seas: turning shared maritime interests into global security responsibilities", Brussels, European Economic and Social Committee, 24 March 2015; C. Barrios, "Fighting piracy in the Gulf of Guinea. Offshore and onshore", *Brief Issue*, no. 20, Paris, European Union Institute for Security Studies, 2013, p. 3.

⁸³ Murphy, *op. cit.*, p. 122f.

⁸⁴ De Gouveia E Melo, conference, European Economic and Social Committee, *op. cit.*

⁸⁵ European Commission, *New EU initiative to combat piracy in the Gulf of Guinea*, Brussels, 10 January 2013.

⁸⁶ European External Action Service, *Fact Sheet – EU Strategy on the Gulf of Guinea*, Brussels, 17 March 2014, p. 2.

⁸⁷ Barrios, *op. cit.*, p. 1.

⁸⁸ A. Fotyga, Member of the European Parliament (ECR), speech, Brussels, European Parliament, Subcommittee on Security and Defence, 17 March 2015.

⁸⁹ Cole, presentation, European Parliament, *op. cit.*

⁹⁰ Barrios, *op. cit.*, p. 2.

⁹¹ United Nations Development Programme, *About Nigeria*, 2013.

capabilities to effectively govern their territorial waters.⁹² Further, especially in Nigeria, federal and local authorities seem to be interwoven with highly structured criminal networks.⁹³ Attacks in the waters off Nigeria are also related to an insurgent group called MEND (Movement for the Emancipation of the Niger Delta) which was already taking crew members as hostages in the mid-2000s – a pattern that is emerging again today.⁹⁴ This group, which is active in the impoverished Niger Delta, demands greater benefits from the oil production in their region including investments in local infrastructures.⁹⁵

The collusion of Nigerian state authorities with criminal networks related to piracy and armed robbery at sea poses a challenge for the international community. Ship-owners are reluctant to share information with the coastal countries due to a lack of trust.⁹⁶ Nigeria does not even allow the use of private security forces on board of merchant vessels in its territorial waters. For EU diplomats, the fact that Nigeria has arrested private guards is “simply outrageous”; and in general, the country seems to be part of the problem rather than part of the solution, with some from within the political elites benefiting from the profits of selling stolen oil on the black market.⁹⁷

Another problem in the Gulf of Guinea is the regional scope of the maritime threat. Numerous coastal countries are legally responsible for protecting their territorial waters. However, legal frameworks and capabilities to fulfil coastguard functions vary widely between these countries, and inter-state as well as inter-regional communication needs to be improved.⁹⁸ Pirates take advantage of the fragmented responsibilities off-shore. The EU, however, tries to turn the regional character of the challenge into a success factor.

The EU's support to regional solutions: from Yaoundé 2013 to Lomé 2015

Mirroring the Djibouti Code of Conduct of 2009 which was adopted in order to foster regional cooperation against piracy around the Horn of Africa, the concerned countries around the Gulf of Guinea and in wider western African waters launched the Yaoundé process with a regional summit in the capital of Cameroon in June 2013. This initiative was supported by the UNSC which had adopted Resolution 2018

⁹² Murphy, *op. cit.*, p. 119.

⁹³ Barrios, *op. cit.*, p. 3.

⁹⁴ Bridger, *op. cit.*

⁹⁵ C. Duffield, “Who are Nigeria’s MEND oil militants?”, *BBC NEWS*, Lagos, 4 October 2010.

⁹⁶ Interview ECSA, *op. cit.*

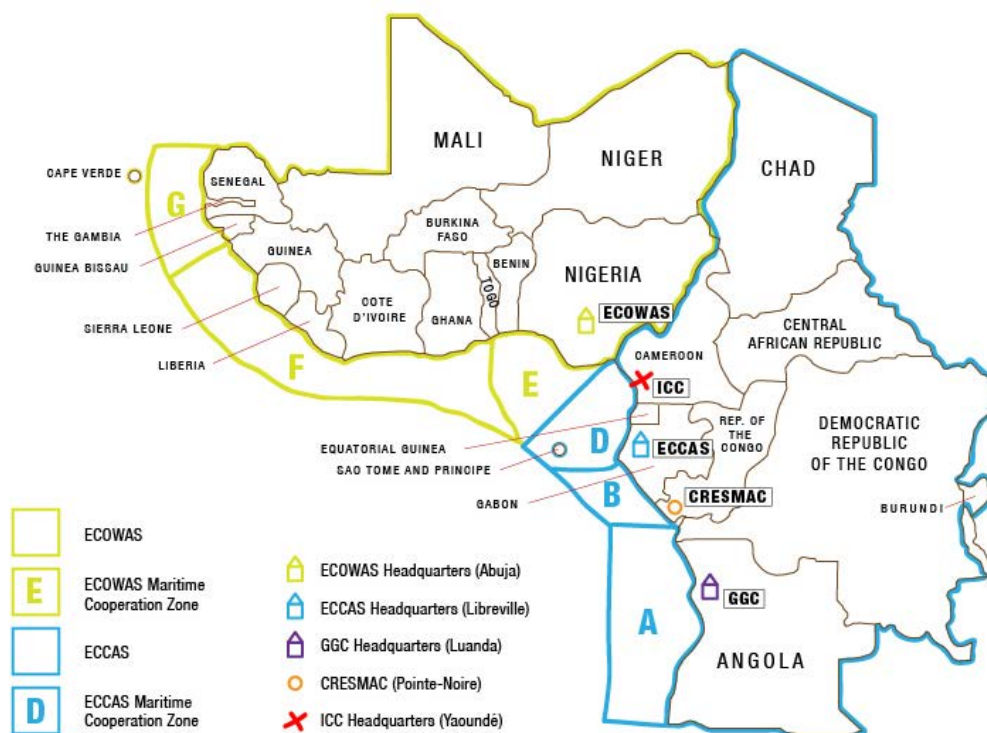
⁹⁷ Interview with an official (no. 2), Crisis Management and Planning Directorate, European External Action Service, Brussels, 24 March 2015; hereinafter referred to as ‘Interview EEAS CMPD 2’.

⁹⁸ Barrios, *op. cit.*, p. 3.

on piracy in the Gulf of Guinea in October 2011 and Resolution 2039 in February 2012, expressing its deep concern and commending the prospect of a regional solution to the problem.⁹⁹

The summit in Yaoundé brought together the coastal countries, the Economic Community of West African States (ECOWAS), the Economic Community of Central African States (ECCAS) and the Gulf of Guinea Commission (GGC). The parties adopted a code of conduct concerning the fight against piracy and armed robbery at sea, and established a maritime security architecture for the region (see Figure 3). Under the umbrella of the Inter-regional Coordination Centre (ICC) in Yaoundé, regional cooperation centres were to be established for Central Africa (CRESMAC) and West Africa (CRESMAO).¹⁰⁰ The EU welcomed the more practical character of this document compared to its Djibouti counterpart, which was rather legalistic.¹⁰¹

Figure 3: The Maritime Regional Architecture in the Gulf of Guinea



Source: Vircoulon & Tournier, *op. cit.*

Cameroon is a leading nation in establishing the regional framework, and two of the maritime cooperation zones are already operational.¹⁰² While some successes have

⁹⁹ United Nations Security Council, *Resolution 2018 (2011)*, New York, United Nations, 31 October 2011; UNSC, *Resolution 2039 (2012)*, New York, United Nations, 29 February 2012.

¹⁰⁰ T. Vircoulon & V. Tournier, "Gulf of Guinea: A Regional Solution to Piracy?", *In Pursuit of Peace Blog*, International Crisis Group, 4 September 2014.

¹⁰¹ Interview EEAS West Africa, *op. cit.*

¹⁰² *Ibid.*

been achieved in implementing the Yaoundé decisions, in particular the establishment of the CRESMAC at Pointe-Noire in Congo-Brazzaville, much work still needs to be done in order to implement the Yaoundé process. Several obstacles remain. First, regional action around the Gulf requires not only coastal countries' coordination but also the effective coordination between the two regional organisations ECCAS and ECOWAS. Second, the financial burden of making this maritime security architecture work is not to be underestimated – and this is where international support comes into play. The resource problem also applies to the lack of intervention capabilities in local coastguards and navies. Third, political rivalries and border disputes persist between countries that are supposed to cooperate and to exchange information. Finally, there are varying levels of concern among the coastal countries due to either the absence of political will to fight maritime crime, or the low frequency of attacks in their territorial waters or on their offshore assets.¹⁰³

It remains questionable, on a general level, whether the existing instruments are capable of tackling the root causes of piracy such as corruption and the importance of the regional oil black market:

Gulf of Guinea piracy is above all an organized crime problem. Ships will never be safe until authorities strengthen police capacity to investigate and prosecute criminal networks, as well as enforce a zero tolerance policy for corruption in security services.¹⁰⁴

In response to pressure from the member states with historical ties to the region, such as France, Portugal, Spain and the UK, the EU endorsed this regional approach in March 2014 by adopting its regional strategy on the Gulf of Guinea.¹⁰⁵ This strategic document focuses on the EU's support for local states' national and regional maritime capacity building, to ensure maritime awareness, security and the rule of law along their coasts, and on intra and interregional cooperation with ECCAS and ECOWAS and their respective member states.¹⁰⁶ The strategy was followed up by the adoption of the Gulf of Guinea Action Plan by the Foreign Affairs Council in March 2015: a detailed document of almost 40 pages, which maps existing EU and EU member states' involvement in the Gulf and spells out further actions together with their delivery horizons in order to achieve the four objectives of the regional strategy.¹⁰⁷

¹⁰³ *Ibid.*; Vircoulon & Tournier, *op. cit.*

¹⁰⁴ T. Vircoulon & M. Schneider, "West Africa: Where Navies Are Not Enough – Fighting Piracy in the Gulf of Guinea", International Crisis Group, 15 August 2013.

¹⁰⁵ Interview EEAS West Africa, *op. cit.*

¹⁰⁶ European External Action Service, *Gulf of Guinea*, *op. cit.*, p. 1.

¹⁰⁷ Council of the European Union, *Council Conclusions on the Gulf of Guinea Action Plan 2015-2020*, 7168/15, 16 March 2015, Brussels.

The EU's approach to piracy and armed robbery at sea is clearly focussed on supporting the regional dynamic. It aims at creating a common understanding among the coastal countries that maritime crime is also detrimental to their own long-term economic development, for instance in terms of attracting foreign investments.¹⁰⁸ The EU welcomes regional ownership, in this as in other contexts. Therefore, the EU tries to mainstream the issue in its dialogues with coastal countries and international organisations.¹⁰⁹ Some countries, such as Ghana, show eagerness to fight maritime crime and to foster regional cooperation in fighting piracy and armed robbery at sea because they see great economic potential in their maritime domain.¹¹⁰ Maritime security also appears to be a topic that is about to enter the agenda of the AU: maritime security in Africa will be discussed during an extraordinary summit of the AU in Lomé in 2016.¹¹¹

The EU as a financial and technical supporter in the Gulf of Guinea

What is the EU currently doing, apart from engaging in political dialogues, to fight piracy and armed robbery at sea or to support coastal countries in their counter-piracy efforts in West Africa? The countries around the Gulf in West and Central Africa cannot be considered failed states, as is the case for Somalia. This is limiting the EU's room of manoeuvre, for instance, regarding the legal mandate for a military intervention in coastal waters. Further, it must be noted that some countries' political elites are allegedly involved in criminal networks or enable their activities.

In order to enhance regional and national capabilities for the fight against maritime crime, the EU focuses on giving advice by deploying experts who help the national governments and regional organisations to implement the Yaoundé Code of Conduct. Again, with the help of the IcSP-funded CMR programme, the EU is supporting the establishment and operation of a regional maritime security architecture in the Gulf. The sub-component programme CRIMGO (Critical Maritime Routes for the Gulf of Guinea), with a budget of €4.5 million over four years, has deployed an expert to the ICC in Yaoundé to enhance maritime security, regional cooperation and information sharing and to deliver regional maritime training to the stakeholders. An IMO expert is also deployed to Yaoundé, funded by the short-term component of the IcSP. For the long term, an additional financial envelope of €7.5

¹⁰⁸ Interview EEAS West Africa, *op. cit.*

¹⁰⁹ *Ibid.*

¹¹⁰ G. Hilse, "Westafrika vereint im Kampf gegen Piraterie", *Deutsche Welle*, 18 March 2014.

¹¹¹ Togolese Ministry for Foreign Affairs and Cooperation, *TOGO 2015*.

million within the IcSP is being programmed for 2016 onwards to support maritime security with project work in the wider region from Senegal to Angola.¹¹²

These projects' deliverables, advice and training, can be compared with what the EU did under the CSDP framework with its civilian mission EUCAP Nestor in East Africa. As the costs for CSDP actions are much higher and Europe is facing an economic crisis, the EU's approach to the Gulf is based on the principle of "low-cost but very high-value".¹¹³ The reluctance of the EU to give equipment to coastal countries, whose navies and coastguards are poorly equipped, can be interpreted in the same vein of avoiding expenses. The EU sees itself as providing expertise rather than hardware.¹¹⁴ Somalia is, with Mali, one of the test cases where the EU has tried to combine training with the provision of equipment; but the potential of similar approaches in West Africa is currently neglected by the EU even though Nigeria keeps asking for coastguard assets.¹¹⁵

Some EU member states provide funding to the Maritime Trade and Information Sharing Centre for the Gulf of Guinea (MTISC-GoG) which was an initiative of the oil and shipping industry and is supported by the G7++ 'Friends of the Gulf of Guinea' (G7++FOGG) group, the IMO and INTERPOL. The centre establishes a picture of the regional maritime security situation and shares information with the shipping companies.¹¹⁶ However, these companies still lack trust in this facility because of possible information leakage about a ship's position and cargo to the pirates. Distrust among private actors also needs to be taken into account as an obstacle for the work of the institutions of the Yaoundé process.¹¹⁷

In order to tackle the root causes of piracy, the EU makes use of its thematic and geographical external financing instruments such as the EDF. For instance, an indicative amount of €512 million is allocated to Nigeria for the period of 2014-2020.¹¹⁸ Nonetheless, these efforts can only be successful and sustainable if the political elites are willing to commit to the same objectives. This has not always been the case in Nigeria.¹¹⁹

Comparable to the EUSR for the Horn of Africa, since October 2015, there is an EEAS Senior Coordinator for the Gulf of Guinea. Her task is to take overall

¹¹² Council of the European Union, *Gulf of Guinea Action Plan*, *op. cit.*, p. 20.

¹¹³ *Ibid.*, p. 15.

¹¹⁴ Interview EEAS West Africa, *op. cit.*

¹¹⁵ Interview EEAS West Africa, *op. cit.*; Interview EEAS CMPD 1, *op. cit.*

¹¹⁶ Maritime Trade Information Sharing Centre Gulf of Guinea, "About", 2014.

¹¹⁷ Interview ECSA, *op. cit.*

¹¹⁸ Government of the Federal Republic of Nigeria & European Commission, *National Indicative Programme for the period 2014-2020*, Nairobi, 19 June 2014, p. 22f.

¹¹⁹ Interview EEAS CMPD 2, *op. cit.*

leadership and to coordinate the EU's and member states' instruments.¹²⁰ This new position does not have the same status as an EUSR but is on the level of Head of Delegation. Financial considerations might have been, again, at the root of the decision not to appoint an EUSR. It is yet to be seen to what extent the Senior Coordinator will succeed in promoting a coherent, complementary and comprehensive EU approach in this fragmented regional context.

Other potential EU resources inspired by the Horn of Africa

The EU's current approach to fighting piracy and armed robbery at sea in the Gulf of Guinea is different from what it has done in Somalia and around the Horn of Africa. The EU diplomats in the EEAS caution against drawing too many parallels between the situations in East and West Africa. Some argue that the only lesson learned from the East for the West is that there is no lesson learned because the situation of state authority is much more advanced in the Gulf countries than in Somalia.¹²¹ However, a lesson learned on the strategic level is that the EU must not act too late, as happened in Somalia, sidelined as it was by the international community during the early 2000s.¹²²

With regard to CSDP instruments, it was argued in the previous sub-section that the EU is already copying the regional maritime capacity-building mission EUCAP Nestor by using the external financing instrument IcSP and the CRIMGO programme in West Africa. Currently, a military solution on the model of EUNAVFOR Atalanta for the Gulf of Guinea is clearly off the table, for five reasons: first, it would undermine the local ownership of the coastal countries as demonstrated in the Yaoundé process. Second, EU member states do not have the necessary naval capabilities deployable at the moment (an alleged military weakness that is to be questioned in the light of the recent launch of the EUNAVFOR Med operation in the Mediterranean Sea in June 2015). Third, there is currently no mandate for such an intervention, and the coastal countries are sovereign states that would not accept international naval forces fighting piracy and armed robbery at sea in their territorial waters.¹²³ Fourth, some member states fear being accused of neo-colonial interference. Fifth, the political elites of some coastal countries such as Nigeria would not approve the EU's military presence because of their collusion with criminal networks.¹²⁴

¹²⁰ Council of the European Union, *Gulf of Guinea Action Plan*, *op. cit.*, p. 19.

¹²¹ Interview EEAS CMPD 1, *op. cit.*

¹²² Interview EEAS West Africa, *op. cit.*

¹²³ Interview EEAS CMPD 1, *op. cit.*

¹²⁴ De Gouveia E Melo, conference, European Economic and Social Committee, *op. cit.*

However, European ship-owners see a need for action in the region and would welcome an increased military presence of naval forces, even outside the territorial waters of coastal countries, to secure maritime transport routes.¹²⁵ This approach may be supported by the fact that since 2011 more attacks on ships for purposes of kidnapping and ransoms have actually taken place in international than in territorial waters.¹²⁶ But the EU strategists would see the launch of a military operation as a step backwards, undermining the established trend in the region for maritime security to be accepted as the responsibility of the coastal countries.¹²⁷

Nonetheless, one lesson learned in the context of the EU's military presence in the West Indian Ocean might be useful for the Gulf of Guinea: the SHADE mechanism helped avoid duplication and enhanced cooperation between international naval forces deployed around the Horn of Africa at a purely operational and tactical level. Some EU member states such as France, the UK, Spain and Portugal, but also NATO and the US, already have warships circulating in the Gulf, paying visits to ports in the region on a regular basis or even conducting joint exercises with the navies of the coastal countries.¹²⁸ These activities could be better coordinated between the international and local navies in order to make more efficient use of military assets with a deterrent effect on pirates.¹²⁹

In early 2015, a meeting of AU ministers envisaged the possibility of creating a coordination and de-confliction mechanism based on SHADE's best practice in West African waters. The EU could give advice and support the establishment of such a mechanism, based on the three essential features of SHADE: it provides a voluntary platform for strategic coordination; it avoids politics and focusing on operational issues only; and it shows visible success in deterring piracy and armed robbery at sea. A potential entry point for the EU and the US to help build and participate in this facility could be the African Partnership Station, an already existing cooperation programme for maritime security established by US Naval Forces Africa (NAVAF).¹³⁰

In this way, the international response and coordination effort to counter piracy in the Gulf of Guinea could draw on the lessons learned around the Horn of

¹²⁵ L. Marinus, Director of International Relations, Security, Ports and Logistics, European Community Shipowners' Association, conference, "Safe Seas: turning shared maritime interests into global security responsibilities", Brussels, European Economic and Social Committee, 24 March 2015.

¹²⁶ De Gouveia E Melo, conference, European Economic and Social Committee, *op. cit.*

¹²⁷ Interview EEAS CMPD 1, *op. cit.*

¹²⁸ Interview EEAS West Africa, *op. cit.*; De Gouveia E Melo, conference, European Economic and Social Committee, *op. cit.*

¹²⁹ Interview EEAS West Africa, *op. cit.*

¹³⁰ Interview EEAS CMPD 2, *op. cit.*

Africa, even if the ultimate strategic aims are not the same.¹³¹ Similarly, consideration may be given to extending the scope of the Somalia-focused CGCPS to include piracy phenomena in West Africa, or even worldwide. The success of this new form of international governance could be beneficial also for coordinating the stakeholders concerned by piracy in the West African waters. Another solution would be to expand the membership of the G7++FOGG group, which has already invited representatives from the oil and the shipping industries as well as ECOWAS and ECCAS to its meetings.¹³² Whichever mechanism might prove easier to realise, there is evidence that cooperation between the different countries and international organisations involved in improving maritime security in the Gulf of Guinea needs strengthening in order to make effective use of the available resources.¹³³ The EU can play a leading role in this regard, drawing on its leadership experience within the CGCPS.

Conclusions

Owing to its counter-piracy operation, the EU has gained an international reputation as the leading maritime security provider in the Horn of Africa. After the launch of its first naval CSDP operation in late 2008, the EU added other civilian instruments and created a first model case of what a Comprehensive Approach, involving the coordinated use of a variety of existing policy instruments, could look like on the ground. Nonetheless, the EU's foreign policy towards the Horn suffered from strategic difficulties. Somalia was and still is a thoroughly failed state. As a consequence of the central government's dependence on international help, the EU was able to deploy a large variety of instruments, ashore and offshore, military and civilian, short-term or long-term oriented. The EU has developed successful tools for military cooperation (SHADE) and emerged as an actor in international politico-diplomatic fora (CGCPS). The multilateral settings suit the EU well, it has been successful in strengthening them because "multilateralism is part of the EU's DNA".¹³⁴

Although the international response has successfully deterred piracy attacks in the last two years, the larger Horn of Africa is unstable, as the ongoing conflict in Yemen shows where two factions claim the government. The EU has to update its strategic framework and take into account the changing regional dynamics and the

¹³¹ *Ibid.*

¹³² French Ministry of Foreign Affairs and International Development, *G7 Friends of the Gulf of Guinea Group*, 2015.

¹³³ A. Gomes, Member of the European Parliament (S&D), speech, Brussels, European Parliament, Subcommittee on Security and Defence, 17 March 2015.

¹³⁴ Houben, presentation, European Parliament, *op. cit.*

potential resurrection of maritime crime.¹³⁵ In the long term, it should determine to what level piracy and armed robbery at sea are acceptable because military presence in the Horn is costly in times of an economic crisis, and other priorities for the EU's military engagement may arise.

European ship-owners and some policy-makers in Brussels see a shift in piracy from the East to the West and float the idea of a stronger EU military presence in the Gulf of Guinea in view of EUNAVFOR Atlanta's success around the Horn of Africa.¹³⁶ Following this lead, this paper examined the extent to which the EU can draw on its experience made off the Somali coast to deter piracy in the Gulf of Guinea. It argued that most member states have little appetite for deploying a second EU naval force in African waters. Therefore, the EU aims to foster common threat awareness and local ownership among the coastal countries. The EU wants to avoid framing piracy and armed robbery as a *crisis* that might trigger a *crisis response*. This can also be seen as a reluctant approach to securitise this question to the same level of attention as in the Somali case.

Whereas the challenges around the Horn of Africa were rather clear and focussed only on Somalia, maritime security in the Gulf of Guinea involves two regional organisations and several sovereign national governments, most of them democratically elected, but with different interests in the maritime domain. The problem, however, seems to be focussed on Nigeria where most incidents occur. In Nigeria, the political elites at several governance levels are allegedly interwoven with the criminal networks engaged in piracy and armed robbery at sea. Collusion is probably the most important and most difficult challenge for external actors in addressing the root causes of maritime crime. In the case of Nigerian piracy, the line between the criminal and the political dimensions is hard to draw, be it because of the (secondary) political objectives of pirates or because of the political elites turning a blind eye on piracy because they also benefit from it. Therefore, European ship-owners *inter alia* expect the EU to raise diplomatic pressure in order to promote effective coastguard protection and the acceptance of private security companies on merchant vessels.¹³⁷

It was shown in this paper that the EU's answer to piracy and armed robbery at sea off East and West African coasts varies. A thorough analysis of the coastal countries' willingness and capabilities to fight piracy must form the basis of such

¹³⁵ Interview EEAS East Africa, *op. cit.*

¹³⁶ Interview with Michael Gahler, Member of the European Parliament (EPP-CD), Brussels, 17 March 2015.

¹³⁷ Marinus, conference, European Economic and Social Committee, *op. cit.*

differentiation. Adapting to the nature of maritime threats, and to the specific situation in these coastal countries, is crucial. The lessons that can be learned from the Horn of Africa for the EU's approach to the situation in the Gulf of Guinea are the importance of a preventive approach and the value of international cooperation. The EU could step up its efforts in the Gulf of Guinea by improving international political and military coordination to support instances of growing awareness and ownership by some coastal countries to combat maritime threats. This aspect is one major element of the EU's international reputation as a maritime security provider off the Somali coast and could play a more important role in the EU's approach to the Gulf of Guinea.

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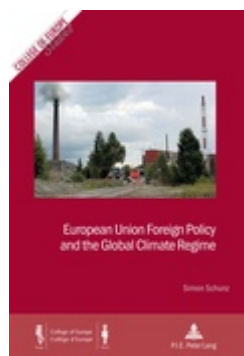
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